IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

WRIT PETITION NO. 1001 (SS) OF 2004

Surendra Dutt Petwal,
S/o Pitambar Duttt Petwal,
R/o Sector -5 (A), Room No. 124, Muldhar,
Baurari, New Tehri, District- Tehri Garhwal.
.....Petitioner.

Versus

1. State of Uttaranchal, through Secretary, Revenue Department, Dehradun, District-Dehradun.
2. District Magistrate, New Tehri, District-Tehri Garhwal.
3. Sub Divisional Magistrate, Dhanolty, District-Tehri Garhwal.
4. Tehsildar Tehsil-Dhanolt6y, District-Tehri Garhwal,
5. Surat Singh Negi, S/o Sri Ratan singh Negi, R/o Village Laluri, P.O. –Lalurikhal, District-Tehri Garhwal. .....Respondents.

Sri Rakesh Thapliyal, Advocate for the petitioner.
Learned counsel for the respondents.

Dated: 22.02.2006

Hon'ble Rajesh Tandon, J.

By the present writ petition, the petitioner has prayed for a writ of certiorari quashing the order dated 15th July, 2004 (Annexure No. 9 to the writ petition). The petitioner has further prayed for a writ of mandamus directing the respondents to appoint the petitioner on the post of Seasonal Collection Peon forthwith and to give all the consequential benefits including regular pay scale.

2. During the course of the arguments, learned counsel for the petitioner has prayed for a writ of mandamus and confined his prayer only to the writ of mandamus.

3. Brief facts giving rise to the present writ petition are that on 27.06.1994, the petitioner was initially appointed as Patwari Peon on temporary basis by the order of Sub Divisional Magistrate, Pratap Nagar, Tehri Garhwal for a period of 35

days. Pursuant to the aforesaid order, the petitioner joined on 01.07.1994. He was permitted to continue up to 10.05.1995.

4. Learned counsel for the petitioner has submitted that during the said period the petitioner was engaged on leave vacancy and he continued as Collection Peon for a period of ten months and ten days, which is a Class IV post.

5. Thereafter, again by an order-dated 01.05.1997, the Sub-Divisional Magistrate appointed the petitioner on the post of Patwari Chaprasi in a leave vacancy for the period of 35 days. In pursuance of which, the petitioner joined and performed his duty to the entire satisfaction of his superior.

6. However, from time to time against the leave vacancy, he was appointed in Class IV post and continued up to 1998. The petitioner was again appointed on 2004 against the substantive vacancy.

7. On 29.05.2004 by an order of the District Magistrate, Tehri Garhwal, the service of the petitioner was dispensed with and in place of the petitioner one Sri Bhagwati Prasad Uniyal/respondent no. 5 was appointed.

8. In view of the aforesaid facts and circumstances, liberty is given to the petitioner to approach the authority concerned for fresh appointment. If such a representation is filed, the same shall be decided on its own merits within a period of six weeks from the date of presentation of the certified copy of the order if possible for a period of six weeks one post shall be kept vacant. for him in accordance with law.

9. Writ petition is disposed of. No order as to costs.

(Rajesh Tandon, J.)

22.02.2006
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